

SENATE NO. 1584

AN ACT TO PROMOTE QUALITY AND AFFORDABLE MUNICIPAL HEALTH INSURANCE THROUGH THE GIC

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 32B of the General Laws is hereby amended by striking out section 19, as
2 appearing in the 2004 Official Edition, and inserting in place thereof the following section:-
3 Section 19. (a) Notwithstanding the provisions of any other section in this chapter, the appropriate
4 public authority of any governmental unit which has undertaken to provide health coverage to its
5 subscribers by acceptance of any other section of this chapter may instead elect to provide health
6 coverage to all such subscribers pursuant to the provisions of this section, by entering into a
7 contract or contracts with any one or more health carriers, or by transferring such subscribers to the
8 group insurance commission established in chapter 32A, pursuant to subsection (e) herein. For the
9 purposes of this section, subscribers shall be defined as employees, retirees, surviving spouses, and
10 dependents of the governmental unit, and may include any employees, retirees, surviving spouses
11 and dependents of a district as defined in section two herein that previously received health
12 insurance benefits through the governmental unit accepting this section. This section shall take
13 effect in a county, except in Worcester county, city, town or district upon its acceptance in the

14 following manner: in a county except in Worcester county, by a vote of the county commissioners;
15 in a city having Plan D or a Plan E charter, by majority vote of its city council and approved by the
16 manager; in any other city by majority vote of the city council and approved by the mayor; in a
17 town, by vote of the board of selectmen; in a regional school district, by vote of the regional district
18 school committee; and in all other districts, by vote of the registered voters of the district at a
19 district meeting.

20 Acceptance of this section shall not take effect until a written agreement is reached between the
21 appropriate public authority and the public employee committee established herein, and such
22 written agreement may condition acceptance of this section upon transferring of subscribers into the
23 group insurance commission pursuant to subsection (e) herein.

24 A written agreement to transfer subscribers to the commission pursuant to this section shall be the
25 sole means by which the subscribers of a governmental unit may be transferred to group insurance
26 commission coverage.

27 Notwithstanding the provisions of subsection (c) of section 4 of chapter 4, the acceptance of this
28 designation may be revoked in the same manner it was accepted in accordance with all other
29 subsections of section 4B of chapter 4, subject to the requirements of any public employee
30 committee agreements as provided in this section and chapter 150E; provided, that revocation of
31 this section shall not take effect until a written agreement providing for such revocation is reached
32 between the appropriate public authority and the employee committee established herein. Nothing
33 in this section shall preclude an appropriate public authority from agreeing to establish a health and
34 welfare trust fund under section 15.

35 Except as otherwise provided in subsection (e) of this section, any such contract or contracts with
36 any one or more health insurance carriers shall be in conformity with an agreement reached by an

37 appropriate public authority and a public employee committee. Such election by the appropriate
38 public authority may be renewed in conformity with any successor agreement reached with a public
39 employee committee.

40 The public employee committee shall be composed of a representative of each collective bargaining
41 unit with which the governmental unit negotiates under chapter 150E of the Massachusetts General
42 Laws, and a retiree. Either the public employee committee or the appropriate public authority may
43 convene the initial meeting of said committee at any time upon 30 days notice. The retiree
44 representative shall be a designee of the Retired State, County and Municipal Employees
45 Association. The retiree representative shall have a 10 per cent vote. The remaining 90 per cent vote
46 shall be divided as follows: each collective bargaining unit represented on the public employee
47 committee shall have a weighted vote equal to the proportion which the number of employees
48 eligible for health insurance under this chapter employed in the bargaining unit he represents bears
49 to the total number of employees eligible for health insurance in all bargaining units of the
50 governmental unit. Any agreement with the public authority must be approved by 70 per cent of the
51 weighted votes of the representatives on the public employee committee as set forth in this section,
52 and shall be binding on all subscribers and their representatives.

53 For the purposes of this section, a health carrier shall include any insurance company organized
54 pursuant to chapter 175, hospital service corporation organized pursuant to chapter 176A, medical
55 service corporation organized pursuant to chapter 176B, a health maintenance organization
56 organized pursuant to chapter 176G, a preferred provider organization organized pursuant to
57 chapter 176I, or, in the case of a governmental unit which is partially or fully self-insured with
58 respect to health coverage, any third party administrator selected by the governmental unit, which
59 may include but is not limited to any health carrier.

60 An agreement so approved under this section shall be binding on all active and retired employees
61 for whom health coverage is being purchased; shall supersede any conflicting provisions of all
62 collective bargaining agreements and shall itself not be subject to supercedence in any statutory
63 impasse proceeding under chapter 150E, provided, however, that the agreement may include
64 procedures for resolving an impasse in negotiations for a successor agreement. Any dispute arising
65 over the interpretation or application of the public employee committee agreement under this
66 section may be submitted to binding arbitration under the labor arbitration provisions of the
67 American Arbitration Association upon request of the public employee committee or the
68 appropriate public authority, except as otherwise provided in subsection (f) herein. Any request
69 must be approved by 70 per cent of weighted votes of the representatives on the public employee
70 committee as set forth in this section, or where applicable by a majority vote of the appropriate
71 public authority.

72 A governmental unit which elects to provide health coverage to subscribers under this section shall
73 be deemed in full compliance with any other provisions of this chapter regulating the procurement
74 of health insurance.

75 A governmental unit which elects to provide health coverage under this section pursuant to an
76 agreement approved by a public employee committee, may provide such coverage either as a single
77 governmental unit or, pursuant to section 12, through joint purchase with other governmental units
78 or, with multiple governmental units, through a risk-sharing pool, trust or health carrier or third
79 party administrator, or by making payments to a health and welfare trust fund to provide health
80 coverage under this section either as a single governmental unit or together with multiple
81 governmental units.

82 The appropriate public authority may contract with a health carrier for direct coverage of
83 subscribers for whom the carrier's geographic service area provides appropriate access and
84 coverage for other subscribers in accordance with subsection (d) herein.

85 (b) Nothing in this section shall be deemed to require, preclude or permit any change in any aspect
86 of health coverage for subscribers authorized by this section except where an agreement to provide
87 for such change is reached by an appropriate public authority and a public employee committee in
88 an agreement entered into or modified subsequent to the effective date of this subsection except as
89 otherwise provided in subsection (e) of this section.

90 In the absence of a successor agreement approved under this section the prior agreement of the
91 public employee committee and the appropriate public authority regarding the provision of health
92 insurance shall remain in effect.

93 (c) Nothing in this section shall be construed so as to relieve any governmental unit from providing
94 health coverage to any employee, retiree, surviving spouse or dependent to whom it has an
95 obligation to provide coverage under any other provision of this chapter.

96 (d) The agreement reached between an appropriate public authority and the public employee
97 committee shall provide for those subscribers who, by reason of residence or domicile, cannot be
98 appropriately served within the service area of the health carrier or carriers included in said
99 agreement, subject to the provisions set forth in this subsection.

100 Coverage for subscribers under this subsection shall be pursuant to and in conformity with the
101 agreement required by this section and shall conform to all requirements of this section. The
102 agreement reached between an appropriate public authority and the public employee committee
103 shall provide that any subscriber who for reasons of residency is not eligible for enrollment in any
104 such plan offered by a governmental unit shall be covered under a plan offered pursuant to chapter

105 176I, if any such plan is provided for under said agreement; provided, that any such subscriber who
106 lives 10 miles or more from the nearest primary care physician providing care under said plan shall
107 have out-of-pocket payments and medical deductibles limited to the amount that he would have
108 paid had he utilized the network of medical services of the plan offered pursuant to chapter 176I. If
109 the agreement reached between the appropriate public authority and the public employee committee
110 provides for only health maintenance organizations or other health carriers that limit enrollment to a
111 particular geographic area, then, notwithstanding any general or special law to the contrary, health
112 maintenance organizations or other health carriers shall provide for the coverage of services
113 provided or arranged for all subscribers who do not reside within the geographic service area of said
114 carriers in the following manner: Any subscriber not eligible for direct coverage due to his
115 residency shall have the same benefit schedule and premium contribution provided to subscribers
116 residing within the carrier's geographic service area, including but not limited to covered services,
117 out-of-pocket payments and medical deductibles for any and all medical services provided for or
118 arranged pursuant to such agreement.

119 (e) Where an agreement is reached by an appropriate public authority and the public employee
120 committee covering the public employee committee of the governmental unit executed or modified
121 so provides, the appropriate public authority shall notify the group insurance commission that it will
122 transfer to said commission all subscribers for whom it provides health coverage. Such notice shall
123 be provided to the commission by the appropriate public authority no later than October 1 and the
124 transfer of subscribers to the commission shall take effect as of the following July 1. On the
125 effective date of the transfer, the health insurance of all subscribers, including elderly governmental
126 retirees previously governed by section 10B of chapter 32A and retired municipal teachers
127 previously governed by section 12 of chapter 32A, shall be provided through the group insurance

128 commission for all purposes and governed pursuant to this section. As of the effective date and for
129 the duration of said transfer, subscribers transferred to the commission's health coverage shall
130 receive group health insurance benefits determined exclusively by the group insurance commission,
131 which coverage shall not be subject to collective bargaining with the exception of contribution
132 ratios which shall be determined by the written agreement.

133 All subscribers transferred to said commission who are eligible or become eligible for medicare
134 coverage shall be required to transfer to medicare coverage, as prescribed by the group insurance
135 commission. In the event of transfer to medicare, the governmental unit shall pay any medicare
136 part B premium penalty assessed by the federal government on said retirees, spouses and
137 dependents as a result of enrollment in medicare part B at the time of transfer into the medicare
138 health benefits supplement plan.

139 For each subscriber's premium and the governmental unit's share of said premium, said subscriber
140 and the governmental unit shall furnish to the commission, in such form and content as the
141 commission shall prescribe, all such information it determines to be necessary to maintain
142 subscribers' and covered dependents' health coverage. The appropriate public authority of the
143 governmental unit shall perform such administrative functions and process such information as the
144 commission deems necessary to maintain said subscribers' health coverage, including but not
145 limited to, family and personnel status changes, and shall report all such changes monthly to the
146 commission. In the event that a governmental unit transfers subscribers to the group insurance
147 commission under this section, subscribers may be withdrawn from commission coverage at either
148 3 or 6 year intervals from the date of transfer of subscribers to the commission, as determined by
149 the written agreement which shall specify the withdrawal interval and withdrawal procedures. The
150 written agreement may specify the procedures for resolving an impasse in negotiations over

151 whether to withdraw from commission coverage and for determining health coverage and
152 contribution ratios for subscribers for the year following withdrawal from the commission,
153 provided, that in the event binding arbitration is included in the written agreement, the agreement
154 shall provide that the dispute shall be submitted to arbitration administered by the
155 American Arbitration Association under the procedures set forth in its Labor Arbitration Rules,
156 unless the written agreement provides for a different method of arbitration.

157 The decision and notice to withdraw must be made by October 1 of the year prior to the effective
158 date of withdrawal. All withdrawals shall be effective on July 1 following the governmental unit's
159 notice to the commission. Except as otherwise provided in the written agreement, withdrawal from
160 commission coverage shall revoke adoption of this section and any written agreements related to
161 the implementation of this section as of the effective date of withdrawal. In the event that the
162 acceptance of this section is revoked, the appropriate public authority of the governmental unit shall
163 abide by all commission requirements for effectuating such withdrawal, including the notice
164 requirements in this subsection. In the event a governmental unit withdraws from group insurance
165 commission coverage pursuant to this section, such withdrawal shall be binding on all subscribers,
166 including those subscribers who, prior to the transfer to the commission, received coverage from the
167 commission under sections 10B and 12 of chapter 32, provided that, after withdrawal from the
168 commission, those subscribers shall under no circumstances pay greater than 25 per cent of the cost
169 of their health insurance premiums.

170 In the event of revocation from this section, the governmental unit and public employee unions
171 shall return to governance of negotiations of health insurance under chapter 150E and chapter 32B
172 on the effective date of withdrawal from commission coverage, to negotiate healthcare coverage for
173 subscribers thereafter.

174 (f) To the extent authorized under chapter 32A, the commission shall provide group coverage of
175 subscribers' health claims incurred after transfer to said commission. The claim experience of said
176 subscribers, shall be maintained by the commission in a single pool and combined with the claim
177 experience of all covered state employees and retirees and their covered dependents, including
178 those subscribers that previously received coverage under section 10B of chapter 32A and section
179 12 of chapter 32A.

180 Notwithstanding any general or special law to the contrary, any governmental unit that self-insures
181 its group health plan pursuant to the provisions of section 3A of this chapter which has a deficit in
182 its claims trust fund at the time of transferring its subscribers to the group insurance commission
183 attributable to failure to accrue claims which had been incurred but not paid is authorized to
184 capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts, or on a
185 schedule providing for a more rapid amortization.

186 Except as provided otherwise herein, subscribers eligible for health coverage under subsection (e)
187 of this section shall be subject to all of the terms, conditions, schedule of benefits, and health
188 carriers as employees and dependents defined by chapter 32A and commission regulations. The
189 commission shall determine all matters relating to subscribers' group health insurance rights,
190 responsibilities, costs and payments excluding contribution ratios, and obligations, including but not
191 limited to, the manner and method of payment, schedule of benefits, eligibility requirements, and
192 choice of health carriers provided that these matters shall be determined exclusively by the
193 commission and shall not be subject to collective bargaining, the written agreement or to arbitration
194 under the agreement. The commission may issue rules and regulations consistent with this section,
195 and shall provide public notice of proposed rules and regulations promulgated pursuant to this
196 section and notice of said rules and regulations at the request of interested parties, opportunity to

197 review said rules and regulations, and opportunity to comment on said rules and regulations in
198 writing and at a public hearing, but under no circumstances shall the commission be subject to the
199 provisions of chapter 30A.

200 Said commission shall negotiate and purchase health coverage for subscribers transferred pursuant
201 to subsection (e) and shall promulgate regulations, policies, and procedures for coverage of such
202 subscribers so transferred. The schedule of benefits available to such transferred subscribers shall
203 be determined by said commission in accordance with chapter 32A. Said commission shall offer
204 such subscribers the same choice as to health carriers and benefits as those provided to state
205 employees and retirees. The governmental unit's contribution to the cost of health coverage for
206 such subscribers, shall be as determined under this section, and shall not be subject to the provisions
207 on contributions in said chapter 32A. Any change to such premium contribution ratios shall become
208 effective as of July 1 of each year, with notice to the commission of such change no later than
209 January 15th of the same year.

210 Any governmental unit that transfers subscribers to the group insurance commission shall pay the
211 commonwealth for all costs of its subscribers' coverage, including the entire cost of applicable
212 administrative expenses and the governmental unit's proportional cost of subscribers' premium. The
213 commission shall determine on a periodic basis the amount of premium and administrative expenses
214 which the governmental units shall pay to the state treasurer, and shall certify the amounts
215 determined as aforesaid to the state treasurer for assessment. The state treasurer shall issue a
216 warrant in the manner provided by section 20 of chapter 59 requiring the governmental units
217 concerned to pay into the treasury of the commonwealth as prescribed by the commission the
218 amounts of such premium and administrative expenses attributable to such governmental units. The
219 treasurer shall bill the participating governmental unit for the full cost of coverage, including said

220 administrative fee, in accordance with policies and procedures established by said commission and
221 the treasurer. The commission may, at its option, recoup any past due costs from the governmental
222 unit's so-called cherry sheet pursuant to section 20A of chapter 58. In the event that a governmental
223 unit fails to pay to the treasurer the costs of coverage for more than 90 days and the so-called cherry
224 sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the
225 coverage of subscribers of said governmental unit. In the event of cancellation due to nonpayment,
226 the governmental unit shall provide all subscribers health coverage under plans which are the
227 actuarial equivalent of plans offered by the commission in the preceding year until there is an
228 agreement with the public employee committee providing for replacement coverage.

229 Said commission may also charge the governmental unit an administrative fee, which shall not be
230 more than 1 per cent of the cost of total premiums for the governmental unit, to be determined by
231 said commission which shall be considered as part of the cost of coverage for purposes of
232 determining the contributions of the governmental unit and its employees to the cost of health
233 coverage by the commission. Any such administrative fee charged hereunder shall be placed in a
234 retained revenue account and used by said commission to pay any personnel or other costs
235 associated with the administration of municipal insurance health coverage.

236 (g) Any agreement reached between the governmental unit and the public employee committee,
237 including an agreement to transfer subscribers to the group insurance commission, shall provide
238 that within the same health coverage plan the percentage contributed by the governmental unit to
239 the premium or cost of health coverage shall be the same for all subscribers covered under this
240 section. Said payments shall differ only by the type of coverage elected under the plan, individual,
241 family, optional Medicare extension or other; provided, however, that the percentage contributed by
242 the governmental unit may vary among the different health coverage plans offered under the

243 agreement reached between the governmental unit and the public employee committee. The
244 agreement reached hereunder shall provide that the percentage contributed by said governmental
245 unit to the premium or cost of at least 1 Medicare extension plan available to all eligible subscribers
246 shall be no less than the minimum percentage contributed by said governmental unit to any other
247 health coverage plan offered pursuant to the agreement reached hereunder. Any governmental unit
248 that accepts this section shall establish by agreement with the public employee committee a
249 contribution by said governmental unit to said premium or cost of health coverage that provides for
250 a minimum of 50 per cent but not more than 99 per cent. Notwithstanding the provisions of this
251 subsection, where there is an agreement to transfer subscribers to the group insurance commission,
252 subscribers whose coverage was governed by section 10 B of chapter 32A or section 12 of chapter
253 32A prior to the date that the written agreement is signed, shall not be required to contribute more
254 than 25 per cent of their health insurance premiums, provided, however, that the written agreement
255 may provide for a premium contribution paid by such subscribers of less than 25 per cent.

256 (h) In the event of revocation of or withdrawal from the group insurance commission under section
257 19, all retirees, their spouses and dependents insured or eligible to be insured by the governmental
258 unit, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required
259 to be insured by a Medicare extension plan offered by the governmental unit under section 11C or
260 section 16. Each retiree shall provide the governmental unit, in such form as the governmental unit
261 shall prescribe such information as is necessary to transfer to a Medicare extension plan. If a retiree
262 does not submit the information required, he shall no longer be eligible for his existing health
263 coverage. The governmental unit may from time to time request from any retiree, a retiree's spouse
264 and dependents, proof certified by the federal government of his or her eligibility or ineligibility for
265 Medicare part A and part B coverage. The governmental unit shall pay any Medicare part B

266 premium penalty assessed by the federal government on said retirees, spouses and dependents as a
267 result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits
268 supplement plan.

269 (i) Where a public employee committee and governmental entity have in existence an agreement
270 pursuant to section 19 of this chapter as of July 31, 2006, such agreement shall remain in full force
271 and effect and shall henceforth be governed by this chapter, as amended; provided, however, that if
272 such agreement provides for the transfer of subscribers to the group insurance commission, the
273 public employee committee and the governmental unit shall amend the agreement, as needed, to be
274 consistent with state law.